

absence of such a judgment, will apply state law to the facts after all criminal appeals are exhausted. The Board will treat the beneficiary as if he or she predeceased the participant and the account will be paid in accordance with § 1651.10.

[62 FR 32429, June 13, 1997, as amended at 75 FR 44066, July 28, 2010]

#### **§ 1651.13 How to apply for a death benefit.**

The TSP has created a paper form that a potential beneficiary must use to apply for a TSP death benefit. The TSP must receive this form before a death benefit can be paid. Any individual can file this form with the TSP record keeper. The individual submitting the form must attach to the form a certified copy of the participant's death certificate. The TSP record keeper's acceptance of this form does not entitle the applicant to benefits. Please visit <http://www.tsp.gov> to obtain a copy of this form and for the current mailing address for death benefit applications.

[70 FR 32217, June 1, 2005, as amended at 71 FR 50319, Aug. 25, 2006]

#### **§ 1651.14 How payment is made.**

(a) *Notice.* The TSP record keeper will send notice of pending payment to each beneficiary.

(b) *Payment.* Payment is made separately to each entitled beneficiary. The TSP will send the payment to the address that is provided on the participant's TSP designation of beneficiary form unless the TSP receives written notice of a more recent address. All beneficiaries must provide the TSP record keeper with a taxpayer identification number; *i.e.*, Social Security number (SSN), employee identification number (EIN), or individual taxpayer identification number (ITIN), as appropriate.

(c) *Payment to the participant's spouse.* The Agency will automatically establish a beneficiary participant account (described in § 1651.19) for any spouse beneficiary. The Agency will not maintain a beneficiary participant account if the balance of the beneficiary participant account is less than \$200 on the date the account is established. The

Agency also will not transfer this amount to another eligible plan or pay it by electronic funds transfer. Instead the spouse will receive an immediate distribution in the form of a check.

(d) *Payment to minor child or incompetent beneficiary.* Payment will be made in the name of a minor child or incompetent beneficiary. A parent or other guardian may direct where the payment should be sent and may make any permitted tax withholding election. A guardian of a minor child or incompetent beneficiary must submit court documentation showing his or her appointment as guardian.

(e) *Payment to executor or administrator.* If payment is to the executor or administrator of an estate, the check will be made payable to the estate of the deceased participant, not to the executor or administrator. A TIN must be provided for all estates.

(f) *Payment to trust.* If payment is to a trust, the payment will be made payable to the trust and mailed in care of the trustee. A TIN must be provided for the trust.

(g) *Payment to inherited IRA on behalf of a non-spouse beneficiary.* If payment is to an inherited IRA on behalf of a non-spouse beneficiary, the check will be made payable to the account. Information pertaining to the inherited IRA must be submitted by the IRA trustee.

(h) If a death benefit payment is returned as undeliverable, the TSP record keeper will attempt to contact the beneficiary. If the beneficiary does not respond within 60 days, the TSP will forfeit the death benefit payment to the Plan. The beneficiary can claim the forfeited funds, although they will not be credited with TSP investment returns.

(i) A properly paid death benefit payment cannot be returned to the TSP.

[62 FR 32429, June 13, 1997, as amended at 67 FR 49527, July 30, 2002; 68 FR 35510, June 13, 2003; 68 FR 74451, Dec. 23, 2003; 70 FR 32217, June 1, 2005; 72 FR 53414, Sept. 19, 2007; 75 FR 78879, Dec. 17, 2010]

#### **§ 1651.15 Claims referred to the Board.**

(a) *Contested claims.* Any challenge to a proposed death benefit payment must be filed in writing with the TSP record keeper before payment. All contested claims will be referred to the Board.

## § 1651.16

The Board may also consider issues on its own.

(b) *Payment deferred.* No payment will be made until the Board has resolved the claim.

### § 1651.16 Missing and unknown beneficiaries.

(a) *Locate and identify beneficiaries.* (1) The TSP record keeper will attempt to identify and locate all potential beneficiaries.

(2) If a beneficiary is not identified and located, and at least one year has passed since the date of the participant's death, the beneficiary will be treated as having predeceased the participant and the beneficiary's share will be paid in accordance with § 1651.10

(b) *Payment to known beneficiaries.* If all potential beneficiaries are known but one or more beneficiaries (and not all) appear to be missing, payment of part of the participant's account may be made to the known beneficiaries. The lost or unidentified beneficiary's share may be paid in accordance with paragraph (a) of this section at a later date.

(c) *Abandoned account.* If no beneficiaries of the account are located, the account will be considered abandoned and the funds will revert to the TSP. If there are multiple beneficiaries and one or more of them refuses to cooperate in the Board's search for the missing beneficiary, the missing beneficiary's share will be considered abandoned. In such circumstances, the account can be reclaimed if the missing beneficiary is found at a later date. However, earnings will not be credited from the date the fund is abandoned. The TSP may require the beneficiary to apply for the death benefit with a TSP form and submit proof of identity and relationship to the participant.

[62 FR 32429, June 13, 1997, as amended at 70 FR 32217, June 1, 2005]

### § 1651.17 Disclaimer of benefits.

(a) *Right to disclaim.* The beneficiary of a TSP account may disclaim his or her right to receive all or part of a TSP death benefit. If the disclaimant is a minor, the parent or guardian of the minor must sign the disclaimer.

(b) *Valid disclaimer.* The disclaimer must expressly state that the bene-

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ficiary is disclaiming his or her right to receive either all or a stated percentage of the death benefit payable from the TSP account of the named participant and must be:

(1) Submitted in writing;

(2) Signed or acknowledged, in the presence of a notary, by the person (or legal representative) disclaiming the benefit; and

(3) Received before the TSP pays the death benefit.

(c) *Invalid disclaimer.* A disclaimer is invalid if it is revocable or directs to whom the disclaimed benefit should be paid.

(d) *Disclaimer effect.* The disclaimed share will be paid as though the beneficiary predeceased the participant, according to the rules set forth in § 1651.10.

[68 FR 35510, June 13, 2003, as amended at 75 FR 44066, July 28, 2010]

### § 1651.18 Payment to one bars payment to another.

Payment made to a beneficiary(ies) in accordance with this part, based upon information received before payment, bars any claim by any other person.

### § 1651.19 Beneficiary participant accounts.

A beneficiary participant account may be established only for a spouse of a deceased participant who is a sole or partial beneficiary of the deceased participant's TSP account. Beneficiary participant accounts are subject to the following rules and procedures:

(a) *Initial investment allocation.* Regardless of the allocation of the deceased participant's account balance at the time of his or her death, each beneficiary participant account will be initially allocated 100 percent to the Government Securities Investment (G) Fund. A beneficiary participant may redistribute his or her beneficiary participant account balance among the TSP investment funds by making an interfund transfer request described in part 1601, subpart C of this chapter.

(b) *Contributions.* A beneficiary participant may not make contributions or transfers to his or her beneficiary participant account. The TSP will not